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Attorneys for Defendant
MID-AMERICA OVERSEAS, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

PROXIM CORPORATION,)	No.: C 03 03820 JW (ARB)
)	
Plaintiff,)	
)	
vs.)	THIRD STIPULATED APPLICATION FOR
)	AMENDMENT TO SCHEDULING ORDER;
MID-AMERICA OVERSEAS, INC.;)	PROPOSED FURTHER AMENDED
EASTERN MARINE UNDERWRITERS;)	SCHEDULING ORDER
AUSTRIAN AIRLINES; and DOES 1)	
through 20, inclusive,)	
)	
Defendants.)	
)	
AND RELATED CROSS-ACTIONS AND)	
COUNTERCLAIM)	

The remaining parties to this action, plaintiff PROXIM CORPORATION and defendant MID-AMERICA OVERSEAS, INC., hereby stipulate and agree as follows:

1. This matter is currently set for a Preliminary Pretrial and Trial Setting Conference on November 19, 2007, at 11:00 a.m. The Pretrial Scheduling Order has twice been amended at the request of the parties. The reason that the parties requested amended Scheduling Orders relates to the pendency of a related action that Proxim Corporation filed against Maritime Insurance

THIRD STIPULATED APPLICATION FOR AMENDMENT TO SCHEDULING ORDER; [PROPOSED]
FURTHER AMENDED SCHEDULING ORDER
CASE NO. CV 813984 JW (ARB)

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1 Company ("MIC") and its affiliate, Eastern Marine Underwriters
 2 ("EMU"), in the Superior Court of Justice in Toronto, Ontario,
 3 Canada. (MIC was a defendant in this present action but was
 4 dismissed on the basis of a forum-selection clause in the
 5 pertinent insurance policy.) The trial in the Canadian action is
 6 currently scheduled to begin on May 14, 2007 (but may trail for a
 7 week and not actually begin until May 21st).

8 3. At the time of their previous requests for the amended
 9 Scheduling Orders, Proxim and Mid-America believed that a
 10 resolution of the Canadian action would benefit both parties in
 11 facilitating their assessments of their positions here, and could
 12 well lead to a settlement of Proxim's claims against Mid-America.
 13 Conversely, if both actions continued on pace for trial, it was
 14 possible that the results in the two actions could be
 15 inconsistent and thus prejudice either Proxim or Mid-America.

16 4. The reasons that motivated Proxim and Mid-America to
 17 seek the former amendment still exist. In order to maximize the
 18 potential savings of costs by the parties and judicial resources,
 19 the parties request that this Court continue the Preliminary
 20 Pretrial and Trial Setting Conference as well as all associated
 21 dates set forth in the currently applicable Scheduling Order for
 22 **approximately 120 days**. Both parties believe that a substantial
 23 further extension of these dates would allow the Canadian action
 24 to run its course and thus alleviate the parties' concerns
 25 relating to the overlapping of issues in the two actions in light
 26 of the fact that Maritime Insurance is not present in this action
 27 and Mid-America is not present in the Canadian action.

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 THIRD STIPULATED APPLICATION FOR AMENDMENT TO SCHEDULING ORDER; [PROPOSED]
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5. Accordingly, the parties stipulate and agree that the Second Amended Scheduling Order, which was filed on April 18, 2006, be further amended and that the following dates be established. (Those parts of the initial Scheduling Order that do not relate to dates or deadlines shall remain in force and effect):

D. Disclosure of Expert Witnesses

7. Any party wishing to present expert witness testimony with respect to a claim or defense shall lodge with the Court and serve on all other parties the name, address, qualifications, résumé and a written report which complies with Fed.R.Civ.P. 26(a)(2)(B) on or before **September 7, 2007** for the plaintiff and **September 28, 2007** for the defendant.

8. Any party objecting to the qualifications or proposed testimony of an expert must file, serve and notice a motion to exclude the expert or any portion of the expert's testimony in writing in accordance with Civil Local Rule 7-2, for hearing no later than **December 10, 2007** at 9:00 a.m.

E. Rebuttal Expert Witnesses

9. If the testimony of the expert is intended solely to contradict or rebut opinion testimony on the same subject matter identified by another party, the party proffering a rebuttal expert shall make the disclosures required by Fed.R.Civ.P. 26(a)(2)(B), no later than **October 29, 2007**.

G. Close of Discovery

10. Pursuant to Civil L.R. 26-2, all discovery, including supplemental disclosure, depositions of expert witnesses must be completed by **December 31, 2007**.

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H. Last Date for Hearing Dispositive Motions

11. The last day for hearing dispositive motions is **February 18, 2008**. Any motions must be noticed in accordance with the Local Rules of Court.

I. Preliminary Pretrial and Trial Setting Conference Statement and Proposed Order

12. The attorneys who will try the case are ordered to confer with one another and to file and lodge with Chambers on or before **March 3, 2008**, a Preliminary Pretrial and Trial Setting Conference Statement and Proposed Order, stating their readiness for trial, the amount of time which the Court should allocate for trial and the calendar period for the trial. Ordinarily, depending on the length of the trial the Court will set the trial during a calendar period approximately three to four months after the Preliminary Pretrial and Trial Setting Conference. In the Statement discussed in this paragraph, the parties should show any cause why the case should be advanced or delayed beyond this point.

13. The attorneys who will try the case are ordered to

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THIRD STIPULATED APPLICATION FOR AMENDMENT TO SCHEDULING ORDER; [PROPOSED]
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CASE NO. CV 813984 JW (ARB)

1 appear on **March 24, 2008 at 11:00 a.m.** for a Preliminary Pretrial
2 and Trial Setting Conference.

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4 IT IS SO STIPULATED.

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6 Dated: April 18, 2007

LAW OFFICES OF GEORGE W. NOWELL

7
8 By: _____/s/_____
George W. Nowell
9 Attorneys for Plaintiff
10 PROXIM CORPORATION


11 Dated: April 18, 2007

FLYNN, DELICH & WISE LLP

12
13 By: _____/s/_____
James B. Nebel
14 Attorneys for Defendant
15 MID-AMERICA OVERSEAS, INC.

16 IT IS SO ORDERED.

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18 Dated: April 25 2007


UNITED STATES DISTRICT JUDGE

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